

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

In re:)	
)	Case No. 15-00081-5-SWH
Advanced Lighting Technologies, LLC,)	Chapter 11
)	
Debtor)	
)	

**MOTION TO ESTABLISH A PROCEDURE FOR THE PERFECTION OF
STATUTORY MECHANICS LIENS, PAYMENTS TO MECHANICS LIENHOLDERS
AND TO PROVIDE ADEQUATE PROTECTION**

NOW COMES Advanced Lighting Technologies, LLC (the “Debtor” or “ALT”), and moves the Court to establish a procedure as contemplated herein regarding certain statutory lien rights of some of the Debtor’s creditors and to provide adequate protection. In support thereof, ALT shows the Court the following:

1. On January 6, 2015, ALT Services Group filed a voluntary petition for relief pursuant to Chapter 11, Title 11 of the United States Code (the "Bankruptcy Code") in the Eastern District of North Carolina.
2. This Court has jurisdiction to consider this motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157 (b)(2)(M).
3. The Debtor is in the business of providing electrical construction services, primarily to industrial and commercial customers. The Debtor’s primary assets are the profits generated from the goods and services provided to its customers.
4. The Debtor is aware that several of its creditors have N.C. Gen. Stat. 44A lien rights, which if enforced, could substantially and materially impact the Debtor’s relationships with its customers if the Debtor’s creditors are forced to pursue these lien rights.
5. The Debtor’s ability to reorganize will be substantially impaired if its suppliers will not continue working with them going forward and/or if the Debtor’s customers cease providing work to the Debtor.
6. The Debtor also desires to ensure that those creditors who would otherwise assert a claim of lien on funds have an alternative mechanism for asserting their claim and obtaining similar protection to the type envisioned by the creditor asserting a claim of lien on funds.
7. Specifically, the Debtor wishes to establish the following procedures governing those

creditors with lien rights under N.C. Gen. Stat Chapter 44A:

- a. In the event that any creditor who may have the right to assert a claim of lien on funds, in lieu of following the statutory requirements for perfecting the same via services of the Notice of Claim of Lien on Funds to the owner of the project on which the Debtor provided goods and/or services, those creditors shall send all appropriate paperwork asserting their lien to counsel for the Debtor. The information to be sent shall be in the same form and substance as if the creditor was sending a Notice of Claim of Lien on Funds directly to the property owner, including all necessary documentation to establish the basis for the amount claimed, including any invoices and any other information necessary to establish that creditor's rights to a lien on funds. The Debtor shall immediately provide a copy of the Notice of Claim of Lien on Funds and supporting documentation to Branch Banking and Trust Company ("BB&T"), by and through its counsel, and to the United States Bankruptcy Administrator.
- b. No creditors will receive any more rights than they would have under applicable state law.
- c. The Debtor has already established a separate bank account for all potential Chapter 44A lien claims (the "Chapter 44A Account"). All funds received by the Debtor that are subject to a Notice of Claim of Liens on Funds submitted in accordance with this procedure that are received by the Debtor prior to the Debtor's receipt of such funds will be deposited in Chapter 44A Account. No funds that are not subject to a timely served Notice of Claim of Liens on Funds as set forth in this Order shall be deposited into the Chapter 44 Account.
- d. All notices received by the Debtor under this procedure prior to the receipt of funds from the property owner shall be entitled to the same rights in the funds ultimately received by the Debtor as if the creditor served its Notice of Claim of Lien on Funds directly on the property owner.
- e. Prior to distribution of funds from the Chapter 44A Account, the Debtor shall provide an accounting to BB&T and the Bankruptcy Administrator of the claims to be paid that shows the amount and exact date and time of receipt of payments; accounting of the segregation of lien-ed funds; proposed payments of claims subjects to liens on funds with supporting documentation. In the absence of a written objection by counsel for BB&T to counsel for Debtor within 10 days after written receipt of the required documentation evidencing valid liens on funds, those amounts may be distributed to 44A lien claimants as follows: in an amount sufficient to cover all asserted claims of lien on funds, provided that the deposited amounts equal or exceed the value of the claims of lien on funds or, to the extent that the funds received are lower than the total amount of the claims of lien asserted against those funds, the funds shall be distributed pro rata to the lien

claimants.

- f. Any funds received by the Debtor that are not subject to any possible claims of lien on funds or that are received by the Debtor prior to the receipt of any Notice of Claim of Lien on Funds are available for deposit into the Debtor's general operating account, subject to any cash collateral orders entered by the Court.
 - g. The procedure herein contemplated shall not prevent any party in interest from raising any defenses to any lien on funds asserted under these procedures.
 - h. To the extent a 44A lien claimant provides materials and supplies to Debtor on credit post-petition, pursuant to further order of the Court and 11 U.S.C. § 364, that would give rise to a 44A lien claim, such lien claimant may submit a Notice of Claim of Lien on Funds in accordance with the procedures contemplated herein to reflect any amounts owed for such materials and supplies.
8. With respect to the possible lien claims asserted by Eck Supply ("Eck"), Eck has previously provided copies of all of its Notices of Claims of Lien on Funds it can assert, as contemplated herein. Eck shall be deemed to have asserted its lien rights with respect to funds deposited into the 44A account as of January 14, 2015.

WHEREFORE, the Debtor prays for an Order of the Court establishing the procedure outlined herein for the perfection of statutory claims of lien on funds and for such other and further relief that the Court deems just and proper.

This 21st day of January, 2015.

JORDAN PRICE WALL GRAY JONES & CARLTON, PLLC

By: /s/Philip W. Paine
Philip W. Paine
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Attorneys for Debtor
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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that she is over eighteen (18) years of age and **NOTICE AND MOTION TO ESTABLISH A PROCEDURE FOR THE PERFECTION OF STATUTORY MECHANICS LIENS, PAYMENTS TO MECHANICS LIENHOLDERS AND TO PROVIDE ADEQUATE PROTECTION** was this day served upon the below named person(s), parties and/or counsel by mailing, postage prepaid, first class mail, a copy of such instrument to such persons, parties and/or counsel at the address shown or as indicated below:

Marjorie K. Lynch
Bankruptcy Administrator
Eastern District of North Carolina
434 Fayetteville Street
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See attached matrix

Date: January 21, 2015

/s/Philip W. Paine
Philip W. Paine
Jordan Price Wall Gray Jones & Carlton, PLLC

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